

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

DRIVE PLANNING, LLC, and
RUSSELL TODD BURKHALTER,

Defendants,

and

JACQUELINE BURKHALTER,
THE BURKHALTER RANCH
CORPORATION, DRIVE
PROPERTIES, LLC, DRIVE
GULFPORT PROPERTIES LLC,
and TBR SUPPLY HOUSE, INC.,

Relief Defendants.

Case No. 1:24-cv-03583-VMC

**RECEIVER’S UNOPPOSED MOTION FOR AUTHORIZATION TO PAY
CAPTAIN LANCE BROOKS TO SERVE AS CAPTAIN FOR “LIVE
MORE” YACHT AND OTHER EXPENSES TO MAINTAIN YACHT**

Kenneth D. Murena, as Court-Appointed Receiver (the “Receiver”) in the above-styled action, moves the Court for authorization to pay from funds of the Receivership Estate Captain Lance Brooks (hereinafter “Captain Brooks”) to serve as Captain for “Live More” yacht, and other expenses to maintain the yacht, preserve its value, and maximize the sale price for the benefit of the Estate, and states:

1. This action commenced on August 13, 2024, with the filing of the Securities and Exchange Commission’s (“SEC”) Complaint against Defendants Drive Planning, LLC and Russell Todd Burkhalter and Relief Defendants Jacqueline Burkhalter, The Burkhalter Ranch Corporation, Drive Properties, LLC, Drive Gulfport Properties LLC, and TBR Supply House, Inc.

2. On August 13, 2024, the Court entered an Order Appointing Receiver (the “Appointment Order”), appointing Kenneth D. Murena, Esq. as Receiver of Drive Planning, LLC (“Driving Planning”). Pursuant to the Appointment Order, the Receiver is authorized to, among other things, “engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, . . . financial or business advisers, forensic experts, . . . or auctioneers.” *See* Appointment Order at ¶ 5. Prior to engaging any such professionals, the Receiver must first obtain an Order of this Court authorizing such engagement. *See* Appointment Order at ¶58.

3. Moreover, the appointment of a receiver was deemed “necessary and appropriate for marshaling and preserving all assets” of Defendant Drive Planning LLC and Defendant Burkhalter, including any “assets attributable to funds derived from investors or clients of the Defendants” *See* Appointment Order at p. 1. The Receiver is empowered to “take reasonable efforts to determine the nature, location, and value of all property interests,” including monies, securities, goods, and other

assets, and to take actions necessary to preserve Receivership Property and prevent the “dissipation or concealment” of such assets. *See* Appointment Order at ¶ 7.

4. Any professionals that the Receiver engages with this Court’s approval are “entitled to reasonable compensation and expense reimbursement from the Receivership Estate as described in the ‘Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission’ agreed to by the Receiver.” *Id.* at ¶ 58.

5. Accordingly, pursuant to the Appointment Order, the Receiver seeks the Court’s approval to pay Captain Brooks to serve as yacht captain for “Live More.” The 68-foot yacht, was purchased by Defendant Russell Todd Burkhalter for \$3,386,004 using investor funds provided by Drive Planning, LLC. It is an asset directly connected to the Receivership Estate. Although Drive Planning provided the payment for the yacht, and it is currently titled in Mr. Burkhalter’s name, Mr. Burkhalter has agreed to allow the Receiver to sell the yacht, with the sale proceeds to be remitted to the Receivership Estate, as part of the efforts to recover assets for the benefit of the Estate.

6. The yacht, “Live More,” is located in Gulfport, Florida and is insured by an insurance company that requires a licensed captain to maintain and operate the vessel. Captain Brooks, who had experience as the captain of Live More, will be responsible for ensuring compliance with this requirement, in addition to

maintaining, managing, and securing the yacht to preserve its value as an asset for the benefit of the Receivership Estate. The regular maintenance of the vessel, including operational duties and managing all aspects of the vessel to meet Coast Guard standards, will be handled by Captain Brooks under the Receiver's supervision.

7. In addition, Captain Brooks will oversee the daily operations and care of the yacht to ensure that its value remains intact until such time as the Receiver is authorized to sell the asset, including ensuring that all components of the air conditioning, plumbing, electrical systems, as well as the exterior and interior of the yacht are kept in working order. Further, Captain Brooks's wife, Heather Brooks, will assist Captain Brooks and provide maintenance services for the yacht.

8. The Receiver has negotiated a discounted rate for Captain Brooks's services. Mr. Burkhalter historically paid Captain Brooks and his wife a total of \$12,500 per month to provide these services. The Receiver has secured a lower monthly rate of \$6,000 for Captain Brooks and his wife to provide the same services. The rate agreed upon will cover the essential services rendered by Captain Brooks and his wife in maintaining and managing the yacht until its sale.

9. The Receiver seeks Court approval to use fund of the Receivership Estate to pay Captain Brooks \$6,000 for the services he and his wife provided in August 2024, even though some were provided prior to the appointment of the

Receiver. Further, the Receiver seeks authority to use Estate funds to pay Captain Brooks \$6,000 per month for the services he and his wife provides each subsequent month, and pro-rated through the date the yacht is sold, to maintain and manage the yacht, preserve its value, and maximize the sale price for the benefit of the Drive Planning investors.

CERTIFICATION OF CONFERENCE

The undersigned counsel certifies that prior to filing this motion the Receiver conferred with counsel for the SEC, and with counsel for Defendants and Relief Defendants, regarding the relief requested herein and such counsel informed undersigned counsel that they consent to the requested relief.

WHEREFORE, the Receiver respectfully requests that this Court enter the proposed Order attached as **Exhibit A**, (i) authorizing the Receiver to use funds of the Receivership Estate to pay Lance Brooks to serve as Captain for the yacht “Live More,” and for the services that he and his wife provides to maintain and manage the yacht, preserve its value, and maximize the sale price of the yacht, and (ii) granting such other and further relief as the Court deems just and proper.

Dated: September 5, 2024

s/Russell Landy
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CERTIFICATE OF SERVICE, FONT AND MARGINS

I hereby certify that on September 5, 2024, I electronically filed the foregoing *Notice* using the CM/ECF System that will automatically send e-mail notification of such filing to all registered attorneys of record.

I further certify that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court.

Dated: September 5, 2024.

s/Russell Landy
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